

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

April 17, 2000

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Sims, Acting Presiding Justice; Hull, Associate Justice; Kolkey, Associate Justice; and Conrad, Bailiff. Calendar called.

C033068 POOLE v. PARKER

Cause called. David J. Bills argued for appellant. Joseph B. Weinberger argued for respondent. Cause submitted.

At 10:00 a.m., court recessed. At 10:05 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Nicholson, and Associate Justice Hull.

C033834 REEVES v. WORKERS; COMPENSATION APPEALS BOARD et al.

Cause called. David J. Froba argued for petitioner. David M. Goi argued for respondent Workers Compensation Appeals Board. Cause submitted.

Court recessed at 10:21 a.m., until 9:30 a.m., April 18, 2000.

C030179 THE PEOPLE v. FISHER

(Not for Publication)

The judgment is affirmed.

DAVIS, J.

We concur: Scotland, P.J.
Hull, J.

April 17, 2000 continued

C029163 MEDIA ONE, Inc., et al. v. PONCE-NICASIO BROADCASTING, Inc., et al.

C030609 PONCE-NICASIO BROADCASTING, Inc. et al. v. MEDIA ONE, Inc.

(Not for Publication)

The appeal (C029163) from the purported judgment of March 23, 1998, is dismissed. The judgment, as amended on May 29, 1998, is affirmed (C030609). Ponce shall pay Fox's costs on appeal.

MORRISON, J.

We concur: Scotland, P.J.
Callahan, J.

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- C033012 THE PEOPLE v. HOLDREN**
Upon review of the record on appeal and defendant's appellate briefs, it is evident that defendant's appeal is based upon a challenge to the validity of his plea of nolo contendere, in that it challenges one or more of the plea's material terms. Therefore, good cause appearing, defendant's appeal filed June 23, 1999, is dismissed for lack of a certificate of probable cause under Penal Code section 1237.5. (See People v. Young (2000) 77 Cal. App. 4th 827, 829, 833-834; People v. Panizzon (1996) 13 Cal. 4th 68, 73, 78-79, 89, fn 15.)
BLEASE, Acting P.J.
- C033135 In re FELICIA F. et al.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. CHERISE F. (Not for Publication)**
The orders of the juvenile court are affirmed.
MORRISON, J.
We concur: Scotland, P.J.
 Kolkey, J.
- C032153 THE PEOPLE v. McRORIE (Not for Publication)**
The judgment is reversed.
MORRISON, J.
We concur: Raye, Acting P.J.
 Kolkey, J.
- C029860 In re CHEU; THE PEOPLE v. CHEU Y. (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Nicholson, J.
 Callahan, J.

April 17, 2000 continued

- C032225 THE PEOPLE v. WICK (Not for Publication)**
The judgment is affirmed. The trial court shall prepare an amended abstract of judgment, showing the count 4, and shall forward a copy to the Department of Corrections.
SIMS, Acting P.J.
We concur: Raye, J.
 Callahan, J.
- C031465 In re SANDY S.; THE PEOPLE v. SANDY S. (Not for Publication)**

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Callahan, J.

**C024917 WASTE MANAGEMENT OF ALAMEDA COUNTY Inc. v. COUNTY OF
ALAMEDA et al; BROWNING-FERRIS INDUSTRIES OF CALIFORNIA,
Inc. (Certified for Publication)**

The judgment is reversed, and the matter is remanded to the trial court with directions to dismiss the action. Having served its purpose, the stay of the trial court's judgment, previously issued by this court, is discharged upon the finality of this opinion. Appellants shall recover their costs on appeal. (Cal. Rules of Court, rule 26(1).)

SCOTLAND, P.J.

We concur: Nicholson, J.

Callahan, J.

C032525 In re JOHN W.; THE PEOPLE v. JOHN W.

(Not for Publication)

Due to the lack of a valid admission of allegations in the supplemental petition, the CYA commitment is reversed and the matter remanded to the juvenile court for further proceedings consistent with this opinion. The maximum period of confinement is reduced to four years and six months. The judgment is otherwise affirmed.

SIMS, Acting P.J.

We concur: Raye, J.

Callahan, J.

April 18, 2000

At 9:29 a.m., the court met in the Library & Courts Building for a continuation of its court calendar session. Present: Blease, Acting Presiding Justice; Nicholson, Associate Justice; Morrison, Associate Justice, and Conrad, Bailiff. Calendar called.

C030969 ALEXANDER et al. v. STATE PERSONNEL BOARD et al.

Cause called. Dennis F. Moss argued for appellants Alexander et al. Anne M. Giese argued for appellants State Employees, etc., et al.

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Vincent J. Scally, Deputy Attorney General, argued for plaintiffs. Cause submitted.

At 10:17 a.m., court recessed until 9:30 a.m., April 20, 2000.

- C031057 LUMPKIN v. FISHBURNE et al.**
Appellant's petition for rehearing is denied.
SCOTLAND, P.J.
- C030759 THE PEOPLE v. RUSSELL, JR. (Not for Publication)**
The judgment is affirmed.
DAVIS, Acting P.J.
We concur: Raye, J.
Callahan, J.
- C032977 In re MATTHEW H.; THE PEOPLE v. MATTHEW H.**
(Not for Publication)
The judgment is affirmed.
RAYE, J.
We concur: Sims, Acting P.J.
Callahan, J.

April 19, 2000

- C034053 THE PEOPLE v. AMWEST SURETY INSURANCE COMPANY**
Appellant's motion to reinstate the appeal is granted. The order of March 23, 2000, dismissing the appeal is vacated, and the appeal is reinstated.
- Appellant's opening brief shall be served and filed on or before May 4, 2000. Failure to file the brief by this date will result in the immediate dismissal of the appeal without further warning.
SCOTLAND, P.J.

April 19, 2000 continued

- C031645 THE PEOPLE v. SKATTEBO (Not for Publication)**
The judgment is affirmed.
CALLAHAN, J.
We concur: Nicholson, Acting P.J.
Kolkey, J.

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- C029940 THE PEOPLE v. WOOD (Not for Publication)**
The judgment is affirmed.
 SIMS, Acting P.J.
We concur: Morrison, J.
 Kolkey, J.
- C033123 THE PEOPLE v. FERNE (Not for Publication)**
The judgment is modified to strike the habitual traffic offender designation. The trial court is directed to prepare an amended abstract accordingly and to forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.
 CALLAHAN, J.
We concur: Sims, Acting P.J.
 Raye, J.
- C033302 In re RACHAEL M. et al.; SACRAMENTO COUNTY DEPARTMENT OF
HEALTH AND HUMAN SERVICES v. RICK M. (Not for Publication)**
The orders are affirmed.
 SIMS, J.
We concur: Scotland, P.J.
 Nicholson, J.

April 20, 2000

At 9:30 a.m., the court met in the Library & Court Building for a continuation of its court calendar session. Present: Sims, Acting Presiding Justice; Morrison, Associate Justice; Callahan, Associate Justice, and Conrad, Bailiff. Calendar called.

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C031527 MICHALOWSKI v. WILLS et al.

Cause called. Adam Sorrells argued for respondent. No appearance on behalf of appellant. Cause submitted.

Court recessed at 9:40 a.m., until 9:30 a.m., April 21, 2000.

C034723 In re GINA T.; HUMAN SERVICES AGENCY v. JOSEPH T.

Appellant's motion to construe the appeal to include the March 24, 2000, disposition and to augment the record on appeal is denied.

It is further ordered that the appeal filed January 19, 2000, is dismissed as from a non-appealable order. (See In re Ricky H. (1992) 10 Cal. App. 4th 552, 558-559.)

SCOTLAND, P.J.

C031529 In re the Marriage of HICKMAN

Good cause appearing appellant's motion to recall the remittitur is granted. This court's dismissal order of August 20, 1999, is vacated and the appeal is reinstated. It is further ordered that the remittitur issued October 20, 1999, be recalled. The El Dorado County clerk is directed to immediately return the remittitur.

Appellant is to serve and file his opening brief on or before May 22, 2000. No further time will be granted. Failure to timely file will result in immediate dismissal unless good cause is shown.

SCOTLAND, P.J.

C032729 THE PEOPLE v. FOX

(Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Blease, J.

Callahan, J.

April 20, 2000 continued

C026756 THE PEOPLE v. BRISTOW

(Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Blease, J.

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At 9:30 a.m., the court met in the Library & Courts Building for a continuation of its court calendar session. Present: Blease, Acting

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Presiding Justice; Raye, Associate Justice; Morrison, Associate Justice; and Castillo, Bailiff. Calendar called.

C032971 FLEMING v. BRUSCINO

Cause called. James E. Bruscino argued for himself in Pro Per as appellant. Frederic L. Snowden argued for respondent. Cause submitted.

C032372 DUMUK v. BOREAL RIDGE CORPORATION

Cause called. Elizabeth F. McDonald argued for appellant. Jennifer L. Pruski argued for respondent. Cause submitted.

At 10:16 a.m., court recessed. At 10:20 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Blease, and Associate Justice Morrison.

C027953 CALIFORNIA APARTMENT ASSOC. et al. v. CITY OF STOCKTON et al.

Cause called. Robert B. Fien argued for appellants. Douglas H. Calkins, Deputy City Attorney, argued for respondents. Cause submitted.

At 10:48 a.m., court recessed. At 10:51 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison, and Associate Justice Callahan.

C031318 COLMA HERITAGE AND PRESERVATION SOCIETY v. LOCKYEAR, etc., et al.; Lucky Chances, Inc. et al.

Cause called. Albert E. Polonsky argued for appellant. Ronald L. Diedrich, Deputy Attorney General, appeared for respondents but did not argue. Timothy M. Muscat, Deputy Attorney General, appeared for respondents but did not argue. Michael Franchetti argued for real party in interest-respondents. Cause submitted.

At 11:08 a.m., court recessed. At 11:10 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Morrison, and Associate Justice Callahan.

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C029211 McCUNE v. LOZANO, SMITH, SMITH, WOLIVER, etc. et al.
Cause called. Mick Favor argued for appellant. Theresa M. LaVoie argued for respondents. Cause submitted.

Court recessed at 11:34 a.m., until 9:30 a.m., April 24, 2000

C032035 THE PEOPLE v. FRASER (Not for Publication)
The judgment is modified to provide for a midterm sentence on the subordinate term and a second restitution fine in the amount of \$200 (§1202.4). The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections. In all other respects, the judgment is affirmed.
HULL, J.
We concur: Blease, Acting P.J.
 Callahan, J.

C031253 THE PEOPLE v. SCHLEEF (Not for Publication)
The order is affirmed.
BLEASE, Acting P.J.
We concur: Sims, J.
 Callahan, J.

C029844 In re the Marriage of Christopher (Not for Publication)
The judgment is affirmed.
HULL, J.
We concur: Blease, Acting P.J.
 Callahan, J.

C031181 THE PEOPLE v. BARNES (Not for Publication)
The judgment is affirmed.
HULL, J.
We concur: Scotland, P.J.
 Nicholson, J.

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C031188 C031719	KING et al. v. WESTERN AGGREGATES, Inc. et al. (Not for Publication) The judgments are reversed and the matter remanded to the trial court with directions to enter new orders overruling defendants' demurrers. Plaintiffs shall receive their costs on appeal. HULL, J. We concur: Sims, Acting P.J. Davis, J.
C033719	In re JESSY C.; YUBA COUNTY DEPARTMENT OF SOCIAL SERVICES v. DANIEL C. (Not for Publication) The judgment is affirmed. HULL, J. We concur: Nicholson, Acting P.J. Kolkey, J.
C034166	In re RUBEN R. et al.; SAN JOAQUIN HUMAN SERVICES AGENCY v. LUCIA R. (Not for Publication) The order of the juvenile court terminating appellant's parental rights is affirmed. HULL, J. We concur: Scotland, P.J. Blease, J.